

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
BEAUMONT DIVISION

DEREK A. RICHARDSON §  
VS. § CIVIL ACTION NO. 1:22-CV-212  
BRYAN A. RICHARDSON, ET AL. §

REPORT AND RECOMMENDATION  
OF UNITED STATES MAGISTRATE JUDGE

Plaintiff Derek A. Richardson, an inmate confined at the LeBlanc Unit of the Texas Department of Criminal Justice, Institutional Division, proceeding *pro se*, filed this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff has requested leave to proceed *in forma pauperis*.

This action was referred to the undersigned magistrate judge pursuant to 28 U.S.C. § 636 for findings of fact, conclusions of law, and recommendations for the disposition of the case.

Discussion

Pursuant to 28 U.S.C. § 1915(b), a prisoner bringing a civil rights action *in forma pauperis* shall be required to pay the full filing fee. When insufficient funds exist to pay the full filing fee at the time of filing, a prisoner requesting to proceed *in forma pauperis* is required to pay an initial partial filing fee of twenty percent of the greater of the average monthly balance in or deposits into the prisoner's account. After payment of the initial partial filing fee, twenty percent of each month's income is deducted from the prisoner's inmate account until the full filing fee is paid.

Plaintiff submitted a financial statement showing the average balance in, and deposits to, his inmate account during the previous six months. A review of the financial statement reveals that

Plaintiff has maintained an average balance of \$2,334.03 over the past six months and currently has \$2,140.83 in his inmate account.

According to the statute, Plaintiff should pay an initial partial filing fee equal to twenty percent of \$2,334.03, his average monthly balance during the previous six months. Twenty percent of \$2,334.03 is \$466.80. This amount exceeds the cost of the full filing fee of \$402.00. Thus, Plaintiff's motion to proceed *in forma pauperis* should be denied.

Recommendation

Plaintiff's motion to proceed *in forma pauperis* should be denied, and Plaintiff should be allowed thirty days to pay the filing fee of \$402.00.

Objections

Within fourteen days after receipt of the magistrate judge's report, any party may serve and file written objections to the findings of facts, conclusions of law and recommendations of the magistrate judge. 28 U.S.C. § 636(b)(1)(C).

Failure to file written objections to the proposed findings of facts, conclusions of law and recommendations contained within this report within fourteen days after service shall bar an aggrieved party from the entitlement of *de novo* review by the district court of the proposed findings, conclusions and recommendations and from appellate review of factual findings and legal conclusions accepted by the district court except on grounds of plain error. *Douglass v. United*

*Servs. Auto. Ass'n*, 79 F.3d 1415, 1417 (5th Cir. 1996) (en banc); 28 U.S.C. § 636(b)(1); FED. R. CIV. P. 72.

SIGNED this 25th day of May, 2022.



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Zack Hawthorn  
United States Magistrate Judge